IN THE MATTER OF	*	**BEFORE THE**
DWAYNE CHEN, M.D.	*	**MARYLAND STATE**
Respondent	*	**BOARD OF PHYSICIANS**
License Number: D61648	*	**Case Number: 2219-0214 B**

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CONSENT ORDER

On November 9, 2020, Disciplinary Panel B ("Panel B") of the Maryland State Board of Physicians (the "Board") charged **DWAYNE CHEN, M.D.** (the "Respondent"), License Number D61648, under the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 14-101 *et seq.* (2014 Repl. Vol. and 2019 Supp).

The relevant provisions of the Act under Health Occ. § 14-404 provide the following:

> (a) *In general.* -- Subject to the hearing provisions of § 14-405 of this subtitle, a disciplinary panel, on the affirmative vote of a majority of the quorum of the disciplinary panel, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:
>
> . . . .
>
> > (22) Fails to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State[.]

On February 24, 2021, Panel B was convened as a Disciplinary Committee for Case Resolution ("DCCR") in this matter. Based on the negotiations occurring as a result of this DCCR, the Respondent agreed to enter into this Consent Order, consisting of Findings of Face, Conclusions of Law, Order, and Consent.

FINDINGS OF FACT

Panel B finds the following:

I. Background and Licensing Information

1. At all times relevant to these charges, the Respondent was and is licensed to practice medicine in Maryland. The Respondent was initially licensed to practice medicine in Maryland on or about May 3, 2004, under License Number D61648. His license is active through September 30, 2022.

2. The Respondent is board-certified in anesthesiology.

3. From 2004 until April of 2019, the Respondent was employed at an organization that provided anesthesia services to healthcare entities, including a hospital (the "Hospital")[1] in Rockville, Maryland where the Respondent had hospital privileges and was a surgical anesthesiologist.

4. The Respondent is currently employed at a healthcare facility in Gaithersburg, Maryland.

II. The Report

5. On or about June 6, 2019, the Board received a Mandated 10-Day Report (the "Report") from the Hospital. The Report stated, "In at least four instances [the "Incidents"], the [Respondent] failed to recognize and respond to emergency patient situations."

[1] To maintain confidentiality, the names of healthcare organizations and employees will not be identified in this Consent Order.

III. Investigation of the Report

6. In response to the Report, the Board conducted an investigation which included but was not limited to subpoenaing the Respondent's quality assurance/risk management file and medical charts, as well as conducting interviews of the Respondent and the Respondent's supervising physician at the Hospital. The Board also submitted the medical charts for peer review.

7. On or around June 28, 2019, the Board received the Respondent's quality assurance/risk management file (the "Quality Assurance File") from the Hospital. The Quality Assurance File revealed the following:

a. The Hospital identified practice deficiencies in three incidents that occurred over a ten-day period in late March and April 2018.

b. As a result, on or around June 11, 2018, the Hospital required that the Respondent undergo a variety of remedial actions.

c. The Respondent was compliant with the Hospital's requirements when the Hospital investigated a complaint filed in March 2019 and identified practice deficiencies with the Respondent's care.

d. In April 2019, the Respondent voluntarily resigned his employment and privileges at the Hospital.

8. On July 12, 2019, the Board provided the Respondent a copy of the Report, informed the Respondent that it had opened a full investigation and requested his written response to the Report.

9. On August 1, 2019, the Respondent submitted his response where he provided detailed accounts of the Incidents.

IV. Peer Review

10. The Board subpoenaed the four medical charts (referenced *infra* as "Charts 1-4") related to the Incidents.

11. The Board submitted Charts 1-4 for peer review.

12. The peer review was performed by two peer reviewers (referred to collectively as the "Peer Reviewers") who are board-certified in anesthesiology.

13. On April 23, 2020, the Board received the Peer Reviewers' reports. The Peer Reviewers independently concluded that the Respondent failed to meet appropriate standards for the delivery of quality medical and surgical care in two of the Incidents.

14. Specifically, the Peer Reviewers opined that the Respondent failed to meet the standard of quality care when:

a. The Respondent transported a patient to a post-procedure recovery room without assisted ventilation when it was previously decided to keep the patient intubated postoperatively (Chart 1).[2]

b. The Respondent administered the wrong drug to a patient during a carotid endarterectomy (Chart 3).

15. The Board provided the Respondent the peer review findings and on June 18, 2020, he provided a written response.

[2] The chart numbers in this document correspond with the chart numbers in the Peer Reviewers' reports.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Disciplinary Panel B concludes as a matter of law that the Respondent failed to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State, in violation of Health Occ. § 14-404(a)(22).

ORDER

It is, on the affirmative vote of a majority of the quorum of Disciplinary Panel B, hereby:

ORDERED that the Respondent is **REPRIMANDED**; and it is further

ORDERED that the effective date of the Consent Order is the date the Consent Order is signed by the Executive Director of the Board or her designee. The Executive Director or her designee signs the Consent Order on behalf of the disciplinary panel which has imposed the terms and conditions of this Consent Order; and it is further

ORDERED that this Consent Order is a public document. *See* Md. Code Ann., Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

Signature on File

03/26/2021
Date

Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

CONSENT

I, Dwayne Chen, M.D., acknowledge that I have consulted with counsel before signing this document.

By this Consent, I agree to be bound by this Consent Order and all its terms and conditions and understand that the disciplinary panel will not entertain any request for amendments or modifications to any condition.

I assert that I am aware of my right to a formal evidentiary hearing, pursuant to Md. Code Ann., Health Occ. § 14-405 and Md. Code Ann., State Gov't §§ 10-201 *et seq.* concerning the pending charges. I waive this right and have elected to sign this Consent Order instead.

I acknowledge the validity and enforceability of this Consent Order as if entered after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my behalf, and to all other substantive and procedural protections as provided by law. I waive those procedural and substantive protections. I acknowledge the legal authority and the jurisdiction of the disciplinary panel to initiate these proceedings and to issue and enforce this Consent Order. I voluntarily enter into and agree to comply with the terms and conditions set forth in the Consent Order as a resolution of the charges. I waive any right to contest the Findings of Fact and Conclusions of Law and Order set out in the Consent Order. I waive all rights to appeal this Consent Order.

I sign this Consent Order, without reservation, and fully understand the language and meaning of its terms.

Signature on File

03-19-21
Date

Dwayne Chen, M.D.
Respondent

NOTARY

STATE OF Maryland

CITY/COUNTY OF Montgomery

I HEREBY CERTIFY that on this 19 day of MARCH, 2021, before me, a Notary Public of the foregoing State and City/County, did personally appear Dwayne Chen, M.D., and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed.

AS WITNESSTH my hand and seal.

LUIS E. MARTINEZ
Notary Public – State of Maryland
Montgomery County
My Commission Expires Oct 2, 2021

Notary Public

My commission expires: 10-02-2021